

ORAL ARGUMENT NOT YET SCHEDULED

Case No. 23-5159

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

MATTHEW D. GREEN, ET AL.,

Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,

Defendants-Appellees.

**NOTICE BY ASSOCIATION OF AMERICAN PUBLISHERS, INC.,
ENTERTAINMENT SOFTWARE ASSOCIATION, MOTION PICTURE
ASSOCIATION, INC., RECORDING INDUSTRY ASSOCIATION OF
AMERICA, INC., AND NEWS / MEDIA ALLIANCE OF INTENT TO
PARTICIPATE AS *AMICI CURIAE* IN SUPPORT OF APPELLEES AND
AFFIRMANCE**

On Appeal from the U.S. District Court for the District of Columbia
Case No. 1:16-cv-01492-EGS
Hon. Emmet G. Sullivan

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Circuit Rule 26.1, *Amici Curiae* state that they have no parent corporations and that no publicly held corporation or other publicly held entity owns ten percent (10%) or more of any *amicus* organization.

NOTICE OF INTENT TO PARTICIPATE AS *AMICI CURIAE*

Pursuant to Circuit Rule 29(b), and the guidance set forth in Section IX(A)(4) of this Court’s Handbook of Practice and Internal Procedure, the Association of American Publishers, Inc. (“AAP”), the Entertainment Software Association (“ESA”), the Motion Picture Association, Inc. (“MPA”), the Recording Industry Association of America, Inc. (“RIAA”), and the News/Media Alliance (“N/MA”) hereby notify this Court of the intent to participate as *amici curiae* and to file a brief *amicus curiae* in the above-captioned matter in support of appellees and affirmance. Counsel for both Plaintiff-Appellants and Defendant-Appellees in the above-captioned matter have indicated that they consent to the filing of timely filed amicus briefs in this matter. AAP, ESA, MPA, RIAA, and N/MA intend to file an amicus brief of no more than 6,500 words, addressing points not made by the Defendants-Appellees, that will aid the Court’s consideration of this case.

AAP, ESA, MPA, RIAA, and N/MA are trade associations whose members create and distribute some of the highest-value, most significant copyrighted works in the marketplace. *Amici* were founded to protect their members’ copyright interests *and* First Amendment rights. No other individuals or organizations are known to intend to file a brief on behalf of this particular position or are in a

position to articulate the particular experiences of AAP, ESA, MPA, RIAA, and N/MA.

AAP represents book, journal, and education publishers in the United States on matters of law and policy, including major commercial houses, small and independent houses, and university presses and other noncommercial scholarly publishers. AAP seeks to promote an effective and enforceable framework that enables publishers to create and disseminate a wide array of original works of authorship to the public on behalf of their authors and in furtherance of informed speech and public progress.

ESA is the U.S. trade association that serves as the voice and advocate for the U.S. video game industry. Its members are the innovators, creators, publishers, and business leaders that are reimagining entertainment and transforming how we interact, learn, connect, and play. ESA works to expand and protect the dynamic marketplace for video games through innovative and engaging initiatives that showcase the positive impact of video games on people, culture, and the economy. The association has an unmatched track record in protecting the industry's First Amendment rights and its content from mass infringement.

MPA is the voice of the global film and television industry—a community of storytellers at the nexus of innovation, imagination, and creativity. In the U.S. and around the world, the film and television industry drives the creative economy.

MPA's members are Walt Disney Studios Motion Pictures; Netflix Studios, LLC; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Universal City Studios LLC; and Warner Bros. Entertainment Inc.

RIAA is a nonprofit trade organization that supports and promotes the creative and financial vitality of recorded music and the people and companies that create it in the United States. RIAA's several hundred members—ranging from major American music companies with global reach to artist-owned labels and small businesses—make up the world's most vibrant and innovative music community. RIAA's members create, manufacture, and/or distribute the majority of all legitimate recorded music produced and sold in the United States. In supporting its members, RIAA works to protect the intellectual property and First Amendment rights of artists and music labels.

N/MA is a nonprofit organization that represents the interests of more than 2,200 news media organizations in the U.S. and internationally. In total, N/MA's membership accounts for nearly 90 percent of the daily newspaper circulation in the United States, nearly 100 magazine media companies with over 500 individual magazine brands, and dozens of digital-only properties. The Alliance diligently advocates for its members on issues including protecting press freedom and intellectual property rights, and advocating for an open government. The proper

interpretation of copyright's fair use defense and the DMCA's protections are matters of urgent importance to N/MA and its members.

DATED: February 7, 2024

Respectfully submitted,

MITCHELL SILBERBERG & KNUPP LLP

John Matthew DeWeese Williams

Lucy Holmes Plovnick

By: /s/ John Matthew DeWeese Williams

John Matthew DeWeese Williams

Counsel for *Amici Curiae*

**CERTIFICATE AS TO PARTIES, RULINGS UNDER REVIEW,
AND RELATED CASES**

(a) *Parties and Amici.* Except for the entities listed herein and any *amici curiae* who have not yet entered an appearance in this Court, all parties, intervenors, and *amici* appearing before the district court are listed in the Briefs for Appellants and Appellees.

(b) *Rulings Under Review.* The rulings under review were made by the United States District Court for the District of Columbia, Hon. Emmet G. Sullivan, in Case No. 1:16-cv-01492-EGS:

1. Order and Opinion Granting in Part and Denying in Part Defendants' Motion to Dismiss (Dkt. Nos. 24, 25) (June 27, 2019);
2. Minute Order Granting Joint Motion for Entry of Final Judgment (May 9, 2023).

(c) *Related Cases.* This case was previously before this Court on appeal as Case No. 21-5195. To our knowledge, there are no other related cases currently pending in this Court or in any other court.

DATED: February 7, 2024

Respectfully submitted,

/s/ John Matthew DeWeese Williams
John Matthew DeWeese Williams

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: February 7, 2024

Respectfully submitted,

/s/ John Matthew DeWeese Williams

John Matthew DeWeese Williams